

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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SOUTH TAHOE PUBLIC UTILITY  
DISTRICT, a public utility  
district,

NO. CIV. S 02-0238 MCE JFM

Plaintiff,

**ORDER**

v.

1442.92 ACRES OF LAND IN ALPINE  
COUNTY, CALIFORNIA; F. HEISE LAND &  
LIVE STOCK COMPANY, INC., a Nevada  
corporation; WILLIAM WEAVER; EDDIE  
R. SNYDER; and CROCKETT  
ENTERPRISES, INC., a Nevada  
corporation,

Defendants.

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Through the present motion, Plaintiff South Tahoe Public  
Utility District ("District") seeks to introduce ten (10)  
additional exhibits at trial on grounds that said exhibits were  
discovered subsequent to the Final Pretrial Order, which was  
originally issued on September 1, 2004 ("PTO"). That Final

1 Pretrial Order, as most recently amended on January 11, 2005  
2 provides in pertinent part as follows:

3       Upon the post-pretrial discovery of exhibits, the attorneys  
4       shall promptly inform the court and opposing counsel of the  
5       existence of such exhibits so that the court may consider at  
6       trial their admissibility. The exhibits will not be  
7       received unless the proffering party demonstrates:

8       (1) The exhibits could not reasonably have been discovered  
9       prior to pretrial;

10       (2) The Court and counsel were promptly informed of their  
11       existence;

12       (3) Counsel forwarded a copy of the exhibit(s) (if physically  
13       possible) to opposing counsel....

14 (PTO, 34:1-11).

15       According to the Declaration of Jeffery H. Speich executed  
16       on July 11, 2005 and submitted along with the instant motion, the  
17       existence of the exhibits now proposed to be introduced was  
18       discovered during the several weeks preceding the date of that  
19       declaration. Because the exhibits in question, which are  
20       documents dating from October 28, 2004 to March 3, 2005, had not  
21       even been prepared at the time of the September 1, 2004 PTO, they  
22       could not reasonably have been discovered prior to that time.

23       In opposing this Motion, Defendant Integrated Farms, LLC  
24       ("Integrated Farms") does not dispute that the proposed exhibits  
25       were prepared after the PTO, or that the District satisfied the  
26       remaining two prerequisites for the introduction of additional  
27       exhibits as set forth in the PTO (namely, that the District  
28       promptly informed this Court and counsel of the existence of the  
      exhibits and provided copies). Instead, Integrated Farms focuses

1 solely on whether the proposed exhibits should in fact be  
2 admitted into evidence.

3 In essence, then, Integrated Farms offers no opposition to  
4 the instant motion. The fact that Integrated Farms has objected  
5 to the actual introduction of the District's additional exhibits  
6 at trial does not bear upon whether they may be identified as  
7 potential exhibits in the first instance. The District has  
8 satisfied the criteria set forth in the PTO for that  
9 identification. The PTO makes it clear that actual objections to  
10 the exhibits themselves will be entertained at a later time;  
11 namely, when in limine motions are heard (PTO, 34:19-20).

13 Although in the present case in limine motions were heard by  
14 the Court on October 25, 2004 at the request of the parties, even  
15 though the October 12, 2004 trial date was vacated by the Court's  
16 Minute Order dated September 30, 2004, under the terms of the  
17 initial PTO said motions were to have been heard on October 11,  
18 2004, the day prior to trial. While the Third Amended Final  
19 Pretrial Order filed January 11, 2005 continues to refer to any  
20 objections to exhibits being heard simultaneously with the in  
21 limine motions (which had already been heard at that time), the  
22 provision of the Third Amended Final Pretrial Order dealing with  
23 exhibit objections makes sense only if interpreted in accordance  
24 with the original PTO, which established a hearing for said  
25 objections the day before trial. Consequently, the Court  
26 reserves ruling on Integrated Farms' objections to any exhibits  
27 offered by the District until that time.  
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1 Given the above, the District Motion to Introduce Additional  
2 Exhibits at Trial is GRANTED.<sup>1</sup>

3 IT IS SO ORDERED.

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5 DATED: August 10, 2005  
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9 MORRISON C. ENGLAND, JR.  
10 UNITED STATES DISTRICT JUDGE  
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<sup>1</sup>Because oral argument would not be of material assistance,  
this matter was deemed suitable for decision without oral  
argument. E.D. Local Rule 78-230(h).